

WILK AUSLANDER

Wilk Auslander LLP T 212-981-2300  
825 Eighth Avenue, Suite 2900 F 212-752-6380  
New York, NY 10019 wilkauslander.com

Michael T. Contos  
Counsel  
212-981-2300  
mcontos@wilkauslander.com

November 1, 2022

**VIA ECF AND E-MAIL**

**(failla\_nysdchambers@nysd.uscourts.gov)**

**MEMO ENDORSED**

The Honorable Katherine Polk Failla,  
District Judge  
United States District Court for the Southern  
District of New York  
40 Foley Square, Room 2103  
New York, New York 10007

Re: *Michael Simon Interiors, et al. v. Wells Fargo Bank, N.A., et al.*,  
Case No. 1:22-cv-08352-KPF

Dear Judge Failla,

We are counsel for plaintiffs, Michael Simon and Michael Simon Interiors, Inc. in the above-referenced matter. We write to inform the Court that Plaintiffs and Defendant, Wells Fargo Bank, N. A. (“Wells Fargo”), the only parties who have appeared in this action, have reached a settlement in principle.

Accordingly, this is to request, on our clients’ and Wells Fargo’s consent that the Court adjourn the conference scheduled in this matter for tomorrow, November 2, 2022 *sine die*, while Plaintiffs and Wells Fargo finalize the settlement documents between them. If any other parties appear in this matter, I will notify the Court in writing promptly.

Thank you for your attention to this matter.

Respectfully submitted,

/s/ Michael T. Contos

Michael T. Contos, Esq.

cc: Justin Kerner, Esq. *via* electronic mail and ECF

Application GRANTED. The pre-motion conference scheduled for November 2, 2022, is hereby ADJOURNED *sine die*.

Based on the above representation that Plaintiffs and Wells Fargo have reached a settlement in principle, it is hereby ORDERED that this action be conditionally discontinued as to Wells Fargo without prejudice and without costs; provided, however, that within thirty (30) days of the date of this Order, Plaintiffs and Wells Fargo may submit to the Court their own Stipulation of Settlement and Dismissal for the Court to So Order. Otherwise, within such time Plaintiffs may apply by letter for restoration of the claims against Wells Fargo to the active calendar of this Court in the event that the settlement is not consummated. This Order shall be deemed a final discontinuance of the action with prejudice as to Wells Fargo in the event that Plaintiffs have not requested restoration of the case to the active calendar within such 30-day period.

The Clerk of Court is directed to terminate Wells Fargo as a defendant in this action. The Clerk of Court is additionally directed to terminate the motion at docket entry 9.

Plaintiff is hereby ORDERED to file a letter apprising the Court of the status of service as to defendants Christopher Balan and Boarder Concepts L.L.C. on or before **November 22, 2022**.

Dated: November 1, 2022  
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE